



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Hal Stratton
 Commissioner Nancy Nord
 Commissioner Thomas H. Moore

ITEM:


Advance Notice of Proposed Rulemaking (ANPR); All Terrain Vehicles: Request for
Comments and Information
(Briefing package dated September 15, 2005, OS No. 4423)

DECISION:

The Commission voted unanimously (3-0) to approve with changes the draft *Federal Register* notice containing an ANPR concerning all terrain vehicles ("ATVs"). In a memorandum dated June 5, 2005, Chairman Stratton directed the staff to review all ATV safety actions and make recommendations to reduce ATV-related deaths and injuries. The staff recommended publishing the draft ANPR as part of its review of ATV activities. The draft ANPR lists several regulatory and non-regulatory alternatives that the Commission could pursue in the future, including rulemaking, and requests comments from the public on these alternatives and on numerous ATV-related issues. The ANPR initiates a rulemaking proceeding under the Consumer Product Safety Act and the Federal Hazardous Substances Act.

Chairman Stratton, Commissioner Nord and Commissioner Moore submitted the attached statements to accompany their votes.

For the Commission:


Todd A. Stevenson
Secretary

* Ballot vote due October 5, 2005

October 5 Statement from CPSC Chairman Hal Stratton:

In a memorandum of June 5, 2005, I directed Consumer Product Safety Commission ("CPSC" or "Commission") staff to undergo an exhaustive review of all existing safety standards concerning all terrain vehicles ("ATVs") and make recommendations regarding the advisability and potential for issuing an advance notice of proposed rulemaking ("ANPR") on this matter. After months of research and deliberation, and in furtherance of their effort to improve ATV safety, Commission staff recommended the issuance of an ANPR as an integral component of their ongoing review. I am in agreement with the staff's recommendation.

The Commission has a long history in the realm of ATV safety, dating as far back as the early 1980s. During my tenure as Chairman, the Commission has dedicated significant amounts of time, energy, and resources to this issue, including a series of regional field hearings in Alaska, West Virginia, and New Mexico, as well as multiple stakeholder meetings at CPSC headquarters.

Nevertheless, as the newly released Annual Report of ATV Injuries and Death indicates, there continues to be a growing number of ATV-related injuries and deaths in the United States. While CPSC data indicates that the estimated injury risk per user rate has actually decreased in recent years, we are still witnessing noticeably higher levels of injuries and deaths among ATV users. This is, at least in part, due to the increase in sale and use of ATVs by the American public.

This ANPR is consistent with my June 5, 2005 memorandum to the staff, and represents the first required step in the rulemaking process. But its value extends beyond its legal significance. As the document indicates, the ANPR is a call for critical information and practical solutions relative to improving ATV safety. To this end, I encourage all interested stakeholders to provide the Commission with meaningful data, comments, and suggestions as staff develops a realistic, effective, and fair approach to ATV safety regulation.

Finally, consistent with my support of the broad regulatory review outlined in the ANPR, I have voted to defer on the ATV petition (CP 02-4/HP 02-1) until CPSC staff have had ample opportunity to weigh its merits against alternative approaches.

STATEMENT OF THE HONORABLE NANCY A. NORD
VICE CHAIRMAN,
U. S. CONSUMER PRODUCT SAFETY COMMISSION

(To Accompany the Advance Notice of Proposed Rulemaking
for All-Terrain Vehicles)

October 5, 2005

I strongly support the Advance Notice of Proposed Rulemaking being issued by the Commission today, in conjunction with the release of the Commission's All-Terrain Vehicle (ATV)-related injury and death data for 2004 and the ballot decision of the Commission to defer a decision on the petition to the Commission requesting a ban of ATVs sold for use by children under 16 years of age. Combined, these three actions indicate both that the Commission is serious about addressing ATV safety and that it is seeking all available information, ideas and solutions to reduce ATV-related deaths and injuries that occur in the U. S. each year.

Over the past several months, I have met with numerous ATV manufacturers, associations, user groups and consumer organizations. I have heard from the parents and other family members of children who have died while operating ATVs about their shock at just how powerful and unpredictable these machines can be, especially when operated by inexperienced riders. I have also learned about industry efforts to try and educate and train the purchasers of their ATVs about safe and responsible ATV use.

Despite the efforts of industry and user groups, and those of the Commission itself to reduce ATV-related injuries and deaths, the number of such incidents remains high and warrants an aggressive and comprehensive review by the Commission of all aspects of the problem, followed by appropriate Commission action.

In conjunction with this issuance of the ANPR by the Commission, it is my invitation and expectation that all affected stakeholders will join with the Commission to

both step-up existing efforts to increase public awareness and responsiveness to ATV safety concerns, as well as to seek new and innovative solutions to the issue.

Ensuring that ATVs are mechanically sound and safe; encouraging to the greatest extent possible that operators get adequate training and that the size and performance of the ATV match the operator's size and experience level; discouraging unsafe ridership and increasing public awareness of ATV safety issues: all of these are critical to reducing ATV injuries and deaths. But in addition to these elements, the skills and behavior of the individual owner and operator has to be considered. It is incumbent upon all stakeholders in this issue to do all we can now to impart to the American public the potential of these vehicles to cause serious injury or death. At the same time, we need to work together to relay the positive message and attitude that safe and responsible ATV ridership is not only "cool" but is the only option to take.

Finally, I would note that the Commission is undertaking a comprehensive review of the so-called "new entrant" ATV manufacturers, i.e., those manufacturers that are not party to existing voluntary ATV safety standards or agreements. As the number of these ATVs sold in the U.S. increases, so too must the commitment of those who make, import or sell such vehicles to join in this comprehensive effort to increase ATV safety.

Adequately addressing the issue of ATV safety will require hard work, creativity and strong commitment and resources from all affected groups. But I believe that it is an

issue that can be successfully addressed and that many lives can be saved and debilitating injuries prevented if we do. Such is our mandate today.



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

**STATEMENT OF THE HONORABLE THOMAS H. MOORE ON THE ADVANCE
NOTICE OF PROPOSED RULEMAKING ON ALL-TERRAIN VEHICLES**

October 5, 2005

Today, I have voted to issue an advance notice of proposed rulemaking ("ANPR") concerning all-terrain vehicles ("ATVs"). This rulemaking proceeding addresses a broad range of regulatory and non-regulatory alternatives that could be used to reduce ATV-related deaths and injuries. This ANPR advances and formalizes a process begun several months ago where the Commission staff was directed to review all ATV past and current safety actions and to come back to the Commission with recommendations on any possible approaches that could be utilized to reduce ATV-related deaths and injuries.

This ANPR is purposely broad and general and is intended to allow for the consideration of all possible ATV-related safety actions including a ban of the sale of adult-size ATVs for the use of children less than 16 years of age. As part of a more comprehensive initiative on ATVs, such a ban could have more efficacy than staff estimated it would have when it was proposed as the sole means of reducing deaths and injuries to these children. With that in mind, I therefore also vote today to defer Commission action on Petition CP 02-4/HP 02-1, requesting a ban of the sale of adult-size four wheel ATVs for use of children under 16 years of age.

In recent years, there has been a very troubling and dramatic increase in the numbers of ATV-related injuries. For example, the 2004 estimated number of emergency-room-treated injuries for all ages - 136,100 - reflects an increase of about eight percent over the 2003 estimate of 125,500 and is an increase of 101% over the 1998 estimate of 67,800. Even more alarming to me is the 2004 estimated number of emergency-room-treated injuries for children under 16 - 44,700 - which is a 16% increase over the 2003 estimate of 38,600 and a 78% over the 1998 estimate of 25,100. The staff's "All-Terrain Vehicle 2001 Injury and Exposure Studies" which factored in the increases in the estimated number of drivers, driving hours and number of ATVs on the road, found that those increases did not account for the increase in the estimated number of ATV injuries between 1997 and 2001. Clearly there are other factors contributing to the dramatic increase in injuries about which the Commission must learn and, if possible, address.

The sheer number of ATVs now in use requires the Commission to periodically review these vehicles in light of the deaths and injuries to their drivers and passengers. | The estimated number of 4-wheel ATVs in use has grown by 3.8 million from 1998 to 2004 to nearly 7 million vehicles. This compares to the less than half a million in use when the Commission first addressed ATVs back in 1984. These numbers are

staggering and, considering these increases, the necessity for further action by this federal government agency is now beyond compelling.

I am particularly concerned with the deaths and injuries to children under 16. Most of these are occurring on adult-sized ATVs. I believe many parents look at these rather squatty-looking four-wheel vehicles and have no idea of the skill or strength it takes to ride them or of the consequences when a several hundred pound machine flies up in the air and lands on a child. In many of these situations, there is no safety gear available that can save the child from being crushed to death. I am encouraged that a public education program is an element of what the Commission will be reviewing as part of the ANPR. There is much parents need to know about these machines and about the death and injuries that are occurring to children who ride them.

We need to engage the states in this initiative. I am pleased that a number of states have recently adopted legislation that should help reduce deaths and injuries, but the changes are not uniform and too many states still have little or no regulation of ATVs. I note that more and more states seem to be allowing ATVs on public paved roads—a driving surface for which ATVs were not designed. If this trend continues, I would expect to see interested parties petitioning the National Highway Traffic Safety Administration to take jurisdiction over ATVs and remove their off-road designation, which could result in some significant requirements for the structural safety of the vehicles.

I think that it is important to note that, more than 20 years ago, the Commission published an ANPR stating the Commission's safety concerns with ATVs and outlining a broad range of options the Commission was considering at that time to address ATV-related hazards. As a result of that initial ANPR a number of actions followed, all intended to address ATV-related safety concerns. Those actions are articulated, as background, in the ANPR now under consideration by the Commission. And those actions did, initially, result in a decline in the deaths and injuries from ATVs.

Notwithstanding that initial decline, we find ourselves 20 years later again searching for ways to address an unacceptable number of injuries and deaths associated with the use of ATVs. It is my hope that these 20 years have been instructive for the Commission. During the course of these 20 years, far too many consumers have been injured and far too many consumers have died as a result of activities associated with this product. I look at this ANPR as a "new beginning" in a review of possible ATV safety actions. I strongly urge all interested parties to actively participate with the Commission in its development of options so that this time we can successfully address what has become a truly unacceptable situation.